



**PRESENT:**

Mr. Russell J. Gulley, Chairman  
Mr. Reuben J. Waller, Jr., Vice-Chairman  
Dr. William P. Brown  
Mr. Dale Patton  
Dr. Edgar V. Wallin  
Mr. Kirkland A. Turner, Secretary to the Commission,  
Planning Director

**ALSO PRESENT:**

Mr. Michael E. Tompkins, Assistant Director,  
Development Review Section, Planning Department  
Mr. Glenn Larson, Assistant Director,  
Plans and Information Section, Planning Department  
Ms. Bonnie L. Perdue, Clerk to the Commission,  
Plans and Information Section, Planning Department  
Mr. Steve Haasch, Planning Manager,  
Plans and Information Section, Planning Department  
Mr. Rob Robinson, Senior Assistant County Attorney,  
County Attorney's Office  
Ms. Tara McGee, Senior Assistant County Attorney,  
County Attorney's Office  
Mr. Greg Allen, Planning Manager,  
Review Section, Planning Department  
Ms. Jane Peterson, Planning Manager,  
Development Review Section, Planning Department  
Ms. Darla Orr, Planning and Special Projects Manager,  
Development Review Section, Planning Department  
Mr. Ryan Ramsey, Planning and Special Projects Manager,  
Development Review Section, Planning Department  
Mr. Robert Clay, Planning and Special Projects Manager,  
Development Review Section, Planning Department  
Ms. Teresa C. Davis, Planning and Special Projects Coordinator,  
Development Review Section, Planning Department  
Mr. Jesse Smith, Director,  
Transportation Department  
Mr. Scott Smedley, Director  
Environmental Engineering Department  
Mr. Dave Wolverton, Microcomputer Analyst  
Information Systems Technology Department

Firefighter Greg Smith, Fire and Life Safety,  
Fire and EMS Department  
Deputy Fire Marshall Anthony Batten, Fire and Life Safety,  
Fire and EMS Department  
Dr. Cynthia Richardson, Planning Administrator,  
Chesterfield County Public Schools

### **ASSEMBLY AND WORK SESSION.**

Messrs. Gulley, Waller, Brown, Patton and Wallin and staff assembled at 3:00 p.m. in the Public Meeting Room, Chesterfield County Administration Building, 10001 Iron Bridge Road Chesterfield, VA, for a work session.

#### **I. CALL TO ORDER.**

#### **II. REQUESTS TO POSTPONE ACTION, EMERGENCY ADDITIONS, CHANGES IN THE ORDER OF PRESENTATION.**

There were no requests to postpone action, emergency additions, or changes in the order of presentation.

#### **III. REVIEW UPCOMING AGENDAS.**

Ms. Jane Peterson apprised the Commission of the caseload agendas for April, May, June, and July.

On motion of Dr. Wallin, seconded by Mr. Waller, the Commission agreed to modify the agenda to add the Virginia State University SAP Construction Discussion to be the last item on the discussion agenda.

AYES: Messrs. Gulley, Waller, Brown, Patton and Wallin.

#### **IV. REVIEW DAY'S AGENDA.**

Ms. Jane Peterson provided an overview to the Commission of the six (6) cases for today's agenda.

#### **V. WORK PROGRAM - REVIEW AND UPDATE.**

There were no questions relative to the work program.

#### **VI. PLANNING COMMISSION FOLLOW-UP ITEMS LIST.**

There were no questions relative to the follow up items list.

#### **VII. 2015 GENERAL ASSEMBLY LEGISLATIVE UPDATE.**

Ms. Mary Anne Curtin presented the 2015 General Assembly Legislative Update.

## **VIII. (13PJ0119) ZONING APPLICATIONS ON HOLD.**

Ms. Jane Peterson apprised the Commission of pending land use cases that had been deferred by the Commission, moved and not advertised at the request of the applicants or placed on indefinite hold at the request of the applicants.

Mr. Gulley stated he would like his fellow Commissioners to review cases on this list from their districts and advise as to whether they should be moved forward.

Mr. Gulley requested staff contact the applicants of the cases placed on indefinite hold to ascertain the status of the case.

Mr. Gulley requested this be added as an item to the April 21, 2015 Work Session.

Dr. Brown stated he wants information as to alternatives for the applicant of each case and any ramifications from the alternatives.

## **IX. DISCUSSION REGARDING MINOR CORRECTIONS TO DEVELOPMENT PLANS.**

Mr. Ray Cash presented an example of a case where a minor correction occurred to a development plan and outlined the process used to correct such plat as well as other options that were available. Mr. Cash outlined the current processes in place to prevent similar incorrect recordation. The processes include reviews through Real Estate Assessor, Clerk of Circuit Court and Planning, as well as required signature of both owner and Planning on plats involving residential uses, and any property zoned R and A. In addition, recent ordinance amendments expanded ability to combine A and R property as the example plan was unable to do in the past, and the reduction of subdivision fees for the most frequent applications needed for fixing similar issues.

In response to a question from Dr. Wallin relative to the origination of the \$1500 fee, Mr. Cash stated the \$1500 fee came from an application for rezoning of the property. The \$900 plus lot fee is the former subdivision fee for lot line changes. The current fee for the example subdivision application is \$ 85 per lot.

In response to a question from Mr. Gulley relative to why the Commission or Board cannot initiate an application to fix the problem, Mr. Cash advised the Commission cannot initiate subdivision applications as the Commission does not have authority to divide property but can initiate an application to zone a property.

Dr. Wallin stated he brought this issue up to explore how Planning could fix these types of situations with administrative authority so it is not so complicated for the applicant and is not time consuming for staff.

Mr. Robinson stated every situation is different so it's hard to come up with a blanket solution. Regardless, the County Attorney and Planning have always come up with a solution to fix these issues. The Board has put various procedures in place to allow staff to fix issues. The processes are much improved from the past. With respect to subdivision, you have to be careful to

understand what the State Code and statutes limit us to do. The Board or Planning Commission can initiate rezoning saving the property owner the fees.

**X. UPDATE TO THE COMMISSION ON THE CAPITAL CONSTRUCTION GOALS & ACCOUNTABILITY COMMITTEE.**

Dr. Wallin updated the Commission on the Committee relative to 2013 Bond Referendum capital construction projects and the membership of the Committee.

Mr. Turner advised that Planning will prepare some information for the Committee in advance of their next meeting concerning the Public Facilities Plan and how it impacts school projects.

In response to a question from Mr. Gulley relative to the line items, Dr. Wallin responded that there was no vote on any line item and he will report out each month on the activities of the Committee.

In response to a question from Mr. Waller relative to the replacement of Mr. Andy Hawkins, Dr. Wallin stated his replacement was not announced.

**XI. RECESS.**

There being no further business to discuss, the Commission recessed the Afternoon Session at approximately 4:22 p.m., agreeing to meet in the Executive Meeting Room at 5:00 p.m., for dinner; and to reconvene in the Public Meeting Room at 6:00 p.m. for the public meeting.

**5:00 P.M. DINNER - EXECUTIVE MEETING ROOM.**

During dinner, there was general discussion on topics related to the Planning Commission.

**6:00 P.M. PUBLIC HEARING.**

**I. CALL TO ORDER.**

**II. INVOCATION.**

Mr. Gulley presented the invocation.

**III. PLEDGE OF ALLEGIANCE TO THE FLAG OF UNITED STATES OF AMERICA.**

Children of Planning Department Secretary, Jessica Palmore, lead the pledge. Courtney Palmore is a seventh grader at Matoaca Middle and Carly Palmore is a rising kindergartener at O.B. Gates Elementary.

**IV. REVIEW UPCOMING AGENDAS.**

Mr. Turner reviewed the upcoming agendas.

**V. APPROVAL OF THE PLANNING COMMISSION MINUTES.**

- January 20, 2015 Minutes. 📄

On motion of Mr. Gulley, seconded by Dr. Wallin, the Commission resolved to approve the January 20, 2015 Planning Commission minutes with the following corrections:

On Page 2, the term for Chairman expires on December 31, 2015 and the term for Vice-Chairman expires on December 31, 2015.

AYES: Messrs. Gulley, Waller, Brown, Patton and Wallin.

- February 19, 2015 Minutes. 📄

On motion of Dr. Brown, seconded by Mr. Waller, the Commission resolved to defer consideration of the February 19, 2015 minutes to the April 21, 2015 Planning Commission meeting.

AYES: Messrs. Gulley, Waller, Brown, Patton and Wallin.

**VI. REQUESTS TO POSTPONE ACTION, EMERGENCY ADDITIONS OR CHANGES IN THE ORDER OF PRESENTATION.**

There were no requests to postpone action, emergency additions or changes in the order of presentation.

**VII. REVIEW MEETING PROCEDURES.**

Mr. Kirk Turner reviewed the meeting procedures.

**VIII. CITIZEN COMMENT ON UNSCHEDULED MATTERS.**

There were no citizens' comments on unscheduled matters.

**IX. PUBLIC HEARING.**

- **DEFERENTIAL REQUEST BY APPLICANT.**

**13SN0132\*:** (AMENDED) In Dale Magisterial District, **Chesterfield Business Partners LLC and Kingsland Towncenter LLC** request amendment of conditional use (Cases 06SN0237 and 07SN0226) relative to reduction of cash proffers and amendment of zoning district map in a Community Business (C-3) District on 101 acres fronting the west line of Iron Bridge Road and the north and south lines of Kingsland Glen Drive. Density will be controlled by zoning conditions or ordinance standards. The Comprehensive Plan suggests the property is appropriate for Community Business and Industrial uses. Tax IDs 771-676-6355; 771-678-2064; 772-676-1177 and 2999; and 772-677-3568.

Mr. Jack Wilson, the applicant's representative, requested deferral for 90 days.

Mr. Gulley opened the floor for public comment.

No one came forward to speak in favor of, or in opposition to, the request.

There being no one to speak, Mr. Gulley closed the public hearing.

In response to a question from Dr. Brown relative to the offer of wastewater credits to the applicant, Mr. Scott Smedley stated the \$5000 per pound of phosphorus credit is based upon an average on what the County cost is today to remove that sediment. Grants would come from other agencies to pay for the remaining costs and will reduce the cost about 50%.

Mr. Jack Wilson stated the applicant is seeking a reduction in cash proffers by offering an asset with the BMP Credits and perhaps the zoning case can be structured so these credits could be given to the county in return for a reduction of the cash proffers.

Ms. Natalie Spillman from Budget stated the environment impact is not part of what is considered in cash proffers based upon the Board's current policy.

In response to a question from Mr. Waller relative to the Board or Budget looking into credits for environmental being used to offset proffers, Ms. Spillman advised while that has not come up, Budget can look into that possibility.

Mr. Patton advised he is in favor of giving the applicant some latitude and to bring the case back so the applicant can realize equity from the BMP.

Mr. Smedley advised that EE does have authority to purchase credits and they are working with DEQ to establish guidelines for these types of purchases and the applicant's property is a good candidate for this type of credit. He feels three (3) months is enough time to come to an understanding of what the value of the credits.

On motion of Dr. Brown, seconded by Mr. Patton, the Commission resolved to recommend deferral of Case 13SN0132 to the June 16, 2015 Planning Commission meeting.

AYES: Messrs. Gulley, Waller, Brown, Patton and Wallin.

- **CONSENT ITEMS- CONDITIONAL USE PLANNED DEVELOPMENTS AND REZONING.**

- B. 15SN0617:** In Midlothian Magisterial District, **Watkins Land, L.L.C.** requests amendment of conditional use planned development (Case 06SN0191) to permit a group care facility and modify transportation improvements and amendment of zoning district map in a General Industrial (I-2) District on 7 acres fronting 580 feet on the west line of Watkins Centre Parkway, 600 feet south of Midlothian Turnpike. Density will be controlled by zoning conditions or ordinance standards. The Comprehensive Plan suggests the property is appropriate for Corporate Office/Research and Development/Light Industrial uses. Tax ID 715-709-3591.

Mr. William Pantele, the applicant's representative, accepted staff's recommendation.

Mr. Gulley opened the floor for public comments.

No one came forward to speak in favor of, or in opposition to, the request.

There being no one to speak, Mr. Gulley closed the public hearing.

On motion of Mr. Waller, seconded by Dr. Brown, the Commission resolved to recommend approval of Case 15SN0617 and acceptance of the following proffered conditions:

PROFFERED CONDITIONS:

1. Master Plan. The textual statement dated February 17, 2006, as amended per the Textual Statement dated March 6, 2015, shall be considered the Master Plan for the subject property. (P)
2. Architectural Treatment. Any building constructed on Parcel A, as shown on Attachment 5, shall be in general conformance with the elevations attached hereto entitled "MCCA Watkins Centre" dated February 24, 2015, relative to architectural style, materials, colors, details and other design features. Exposed exterior walls (above finished grade and exclusive of trim) shall consist of stone, stone veneer, brick, cementitious siding, or a combination of the foregoing. The exact building treatment shall be approved at the time of site plan approval. (P)

An exception to the setback is requested in Tract E of the Textual Statement in Case No. 06SN0191 as it pertains to the property which is the subject of this request (i.e., approximately seven (7) acres at the northwest intersection of Watkins Centre Parkway and East/West Road). In the event the property subject to this rezoning application is developed using the original setbacks established in Zoning Case No. 06SN0191, the proffered conditions contained herein shall not apply to the development:

3. Setbacks Along East/West Special Access Street. All buildings, drives and parking areas shall have a minimum twenty-five (25) foot setback from the ultimate right-of-way of the proposed East/West Special Access Street. Within these setbacks, landscaping shall be installed in accordance with "perimeter landscaping C" with the exception of using larger caliper material (i.e. three and one-half (3.5) inch minimum on large trees, eight (8) feet high for evergreens, and three (3) inch caliper for small trees). (P)

AYES: Messrs. Gulley, Waller, Brown, Patton and Wallin.

- C. **15SN0618:** In Bermuda Magisterial District, **Plantation Haven LLC** requests conditional use planned development to permit exceptions relative to existing additions to manufactured homes and amendment of zoning district map in Manufactured Home Park (MH-1) and General Business (C-5) Districts on 7.1 acres fronting 350 feet on the west line of Jefferson Davis Highway, 175 feet north of Whitehouse Road, also fronting 620 feet on the north line of Whitehouse Road, 285 feet west of Jefferson Davis Highway. Density will be controlled by zoning conditions or ordinance standards. The Comprehensive Plan suggests the property is appropriate for Community Mixed use. Tax IDs 799-629-0432 and 1049.

Mr. R. L. Dunn, the applicant, accepted staff's recommendation.

Mr. Gulley opened the floor for public comments.

No one came forward to speak in favor of, or in opposition to, the request.

There being no one to speak, Mr. Gulley closed the public hearing.

On motion of Mr. Patton, seconded by Dr. Wallin, the Commission resolved to recommend approval of Case 15SN0618 subject to the following condition:

**CONDITION:**

With the approval of this request, the nine (9) enclosed additions identified on Exhibit A, dated March 5, 2015, shall be permitted provided such additions comply with all applicable building code standards. No other permanent-type living space shall be added to any manufactured home. The existing additions shall not be enlarged, extended or substituted. The existing additions cannot be structurally altered, unless such alteration is authorized by the County as necessary for compliance with building code requirements. (BI and P)

AYES: Messrs. Gulley, Waller, Brown, Patton and Wallin.

- D. **15SN0620:** In Dale Magisterial District, **Shawn Nicole Stone** requests conditional use to permit a family day-care home and amendment of zoning district map in a Residential (R-7) District on .4 acre known as 5933 Fieldstone Road. Density will be controlled by zoning conditions or ordinance standards. The Comprehensive Plan suggests the property is appropriate for Suburban Residential II (2.0 to 4.0 dwellings per acre). Tax ID 770-690-6733.

Ms. Stone, the applicant, accepted staff's recommendation.

Mr. Gulley opened the floor for public comments.

No one came forward to speak in favor of, or in opposition to, the request.

There being no one to speak, Mr. Gulley closed the public hearing.

On motion of Dr. Brown, seconded by Mr. Waller, the Commission resolved to recommend approval of Case 15SN0620 and acceptance of the following proffered conditions and proffered condition 8 in the addendum:



PROFFERED CONDITIONS:

1. Non-Transferable Ownership: This conditional use approval shall be granted to and for Shawn N. Stone and Larry D. Stone, exclusively, and shall not be transferable nor run with the land. (P)
2. Expansion of Use: There shall be no exterior additions or alterations to the existing structure to accommodate this use. (P)
3. Signage: There shall be no signs permitted to identify this use. (P)
4. Number of Children: This conditional use approval shall be limited to providing care, protection and guidance to a maximum of twelve (12) children, other than the applicant's own children, at any one time. (P)
5. Hours of Operation: Hours and days of operation shall be limited to Monday through Friday from 7 a.m. to 6 p.m. There shall be no Saturday or Sunday operation of this use. (P)
6. Fenced Outdoor Play Areas: Any outdoor play area and/or recreational equipment utilized by the family day-care home shall be located in the side or rear yard of the property. Outdoor play and/or recreational equipment areas shall have perimeter fencing of at least four feet in height, installed around the equipment or play area. Equipment for outdoor play areas shall be located no closer than fifteen (15) feet to the side or rear property lines. (P)
7. Employees: No more than one (1) employee shall be permitted to work on the premises, other than family member employees that live on the premises. (P)
8. Time Limitation: This conditional use approval shall be granted for a period not to exceed five (5) years from the date of approval. (P)

AYES: Messrs. Gulley, Waller, Brown, Patton and Wallin.

- E. **15SN0622:** In Midlothian Magisterial District, **Talley Sign Company** requests conditional use to permit an electronic message sign and amendment of zoning district map in a General Business (C-5) District on 5.2 acres fronting 90 feet on the south line of Midlothian Turnpike, across from Buford Road. Density will be controlled by zoning conditions or ordinance standards. The Comprehensive Plan suggests the property is appropriate for Community Mixed use. Tax IDs 760-705-0361, 0545 and 1965.

Mr. Matt Gallienne, the applicant's representative, accepted staff's recommendation.

Mr. Gulley opened the floor for public comments.

No one came forward to speak in favor of, or in opposition to, the request.

There being no one to speak, Mr. Gulley closed the public hearing.

On motion of Mr. Waller, seconded by Dr. Brown, the Commission resolved to recommend approval of Case 15SN0622 and acceptance of the following proffered condition:

PROFFERED CONDITION:

In addition to Ordinance requirements any computer-controlled, variable message, electronic sign shall conform to the following standards:

- a. Copy shall be limited to a maximum of three (3) lines and shall not move but may fade;
- b. The message or display shall be programmed to change no more than once every thirty (30) seconds;
- c. Sequential messaging shall be prohibited;
- d. Flashing and traveling messages shall be prohibited;
- e. Bijou lighting and animation effects shall be prohibited;
- f. The electronic message center shall be incorporated into an architecturally designed sign structure that is compatible and complimentary to the building it serves; and
- g. Brightness shall be limited so as not to exceed 0.3 foot candles above ambient light as measured using a foot candle meter at a distance of seventy-one (71) feet. The sign shall have a photocell that automatically adjusts the brightness according to the ambient light conditions. (P)

AYES: Messrs. Gulley, Waller, Brown, Patton and Wallin.

- F. **15SN0624:** In Bermuda Magisterial District, **Chesterfield County Board of Supervisors** propose a conditional use to permit a private school and amendment of zoning district map in a Residential (R-7) District on 4.5 acres located in the northeast quadrant of the intersection of West Hundred Road and Osborne Road. Density will be controlled by zoning conditions or ordinance standards. The Comprehensive Plan suggests the property is appropriate for Office/Residential Mixed use and Residential (2.5 dwellings per acre or less). Tax IDs 793-656-7618, 8532, and 9037; and 794-656-0123 and 0200.

Mr. Kirk Turner, the applicant's representative, accepted staff's recommendation.

Mr. Gulley opened the floor for public comments.

No one came forward to speak in favor of, or in opposition to, the request.

There being no one to speak, Mr. Gulley closed the public hearing.

On motion of Mr. Patton, seconded by Dr. Wallin, the Commission resolved to recommend approval of Case 15SN0624 subject to the following conditions:

**CONDITIONS:**

1. Use. The private pre-school school shall only be permitted in conjunction with the church use. (P)
2. Development Standards. Except where the requirements of the underlying Residential (R-7) zoning district are more restrictive, any new development for the private school use shall conform to the requirements of the Zoning Ordinance for commercial uses in Emerging Growth Areas. (P)
3. Recreational Facilities. Recreational facilities associated with the pre-school shall be limited to the existing playground area identified on Exhibit A, which could accommodate swings, jungle gyms or similar such facilities. The playground shall continue to be screened from West Hundred Road (Route 10) with a six (6) foot privacy fence. (P)

AYES: Messrs. Gulley, Waller, Brown, Patton and Wallin.

**XI. (15PJ0112) CODE AMENDMENT RELATIVE TO DEVELOPMENT STANDARDS MODIFICATION.**

An Ordinance To Amend The Code Of The County Of Chesterfield,1997, As Amended, By Amending And Reenacting Sections 19-19, 19-21, 19-23, 19-24, 19-25, 19-27 And 19-301 Of The Zoning Ordinance Relating To Development Standards Modifications Approved By The Director Of Planning.

Mr. Ray Cash presented an overview of the Ordinance changes relative to development standards modification.

Mr. Gulley opened the floor for a public hearing.

No one came forward to speak in favor of, or in opposition to the Code Amendment.

On motion of Dr. Brown, seconded by Mr. Waller, the Commission resolved to recommend approval of the Code Amendment Relative to Development Standards Modification, An Ordinance To Amend The Code Of The County Of Chesterfield,1997, As Amended, By Amending And Reenacting Sections 19-19, 19-21, 19-23, 19-24, 19-25, 19-27 And 19-301 Of The Zoning Ordinance Relating To Development Standards Modifications Approved By The Director Of Planning.

AN ORDINANCE TO AMEND THE CODE OF THE COUNTY OF CHESTERFIELD,1997,  
AS AMENDED, BY AMENDING AND REENACTING SECTIONS 19-19, 19-21, 19-23,  
19-24, 19-25, 19-27 and 19-301 OF THE ZONING ORDINANCE RELATING TO

DEVELOPMENT STANDARDS MODIFICATIONS APPROVED BY  
THE DIRECTOR OF PLANNING

BE IT ORDAINED by the Board of Supervisors of Chesterfield County:

*(1) That Sections 19-19, 19-21, 19-23, 19-24, 19-25, 19-27 and 19-301, of the Code of the County of Chesterfield, 1997, as amended, are amended and re-enacted, to read as follows:*

Chapter 19

ZONING

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**Sec. 19-19. Reserved. ~~Planning commission may grant modifications to development standards and requirements.~~**

~~(a) Except for those development standards or requirements which must be modified by the granting of a variance, special exception, conditional use or a rezoning, the planning commission may grant modifications, with or without conditions, to development standards or requirements specified in this chapter. The planning commission shall fix a reasonable time for the hearing of an application under this section and decide the same within 60 days after its first hearing on the matter, unless the applicant requests or consents to action beyond such time or unless the applicant withdraws the request.~~

~~(b) No modification to a development standard or requirement shall be authorized by the planning commission unless it considers and determines substantial compliance with all of the following factors:~~

- ~~(1) By reason of the exceptional narrowness, shallowness, size or shape of the specific piece of property or nearby properties or by reason of exceptional topographic conditions or other exceptional situation or condition relating to such properties the strict application of the terms of this chapter would effectively prohibit or unreasonably restrict the use of the property.~~
- ~~(2) The granting of the modification will alleviate a clearly demonstrable hardship as distinguished from a special privilege or convenience, and the hardship is not shared generally by other properties in the same zoning district and the same vicinity.~~
- ~~(3) The modification will not be injurious to the use and enjoyment of adjacent property owners; will not diminish or impair property values within the neighborhood; will not change the character of the district; and will not be detrimental to or endanger the public health, safety or general welfare.~~
- ~~(4) The condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this chapter.~~
- ~~(5) The granting of such modification will allow the project to comply with the comprehensive plan.~~

~~(c) In authorizing a modification, the planning commission may impose conditions regarding the location, character and other features of the proposed building, structure or use as it may deem necessary to the public interest; and it may require a guarantee or bond to remain in effect until compliance with such conditions has occurred.~~

~~(d) The planning commission shall not grant more than the minimum necessary modification to the appropriate development standard or requirement to resolve the hardship. The planning commission shall not grant a permanent modification to a standard or requirement if a temporary modification will suffice. A temporary modification may be granted if the planning commission determines that permanent compliance will be obtained in a future phase of development.~~

~~(e) The planning commission shall not grant a modification to any development standard or requirement if:~~

~~(1) The granting of the modification will constitute the granting of a variance, special exception, conditional use or a rezoning.~~

~~(2) Ordinary financial considerations are the principal reason for the requested modification.~~

~~(3) The modification amends a property-specific condition imposed by the board of supervisors or the board of zoning appeals, unless such condition specifically grants such modification authority to the planning commission.~~

~~(4) The applicant created the condition or situation generating the need for the modification and the applicant has not exhausted all other practicable solutions to the problem, including, but not limited to, the acquisition of additional property, the elimination or redesign of structures, or the reduction of development density.~~

~~(f) If the applicant disagrees with the planning commission's final decision, he may file a written appeal with the circuit court within 60 days of that decision. In addition, adjacent property owners may appeal the planning commission's final decision by filing a written appeal with the circuit court within 60 days of that decision. Adjacent property owners' appeals shall be limited to conditions which directly affect the property owners and include access, utility locations, buffers, conditions of zoning, architectural treatment and land use transitions. The court shall fix a reasonable time for hearing the appeal. During the appeal, the director of planning shall not approve any applicable site plan, building permit or record plat for any construction that would or could be affected by the appeal.~~

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Sec. 19-21. Same--Powers and duties.

The board of zoning appeals shall have the following powers and duties:

(a) To hear appeals as provided for in sections 19-19.1 and 19-23.

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Sec. 19-23. Director of planning; authority to grant ~~administrative variances~~ modifications to development standards.

(a) ~~At the time an application is submitted, the applicant shall elect whether to seek an administrative variance or whether to seek a variance as set forth in section 19-21 of this chapter. If the applicant fails to make such an election, his application will be processed under this section.~~

~~(b)-(c) The director of planning may grant an administrative variance from any building setback requirement. No such administrative variance shall be authorized by the director of planning unless he makes the following findings in writing: Except as restricted herein, the director of planning may grant a modification to the provisions of this chapter regarding development standards for a building, other improvements, or standards related to a building or other improvements including, but not limited to, size, height, location or features.~~

Modifications shall not be permitted to the standards of Section 19-227 (Sale of alcoholic beverages near schools); Article III, Division 3 (Floodplain Management Districts and Dam Break Inundation Zones); Article IV, Division 4 (Chesapeake Bay Preservation Areas); Article IV, Division 5 (Upper Swift Creek Watershed); Article IV, Division 6 (Stormwater Management and Best Management Practice Basins); Article VII, Division 1, Subdivision V (Access and Internal Circulation – Nonresidential or Mixed-use Development); Article VII, Division 4 (Signs); Article VII, Division 5 (Access and Internal Circulation – Nonresidential or Mixed-use Development); or any other development standard for which the ordinance expressly grants authority for modification by another department or entity.

In granting a development standards modification, the director of planning shall make the following findings in writing:

- ~~(1) That the strict application of the ordinance requirement would produce undue hardship;~~
- ~~(2) That such hardship is not shared generally by other properties in the same zoning district and the same vicinity; and~~
- ~~(3) That the authorization of such administrative variance will not be of substantial detriment to adjacent property will not result; and that~~
- ~~(4) the character of the zoning district will not be changed. by the granting of the administrative variance.~~

(b) In granting a modification, conditions may be imposed related to the impact of the modification as deemed necessary to substantially secure the objectives of the standards of this chapter.

(c) Any application for an administrative variance development standards modification described in this section shall be made in accordance with the provisions of section 19-24.

(d) The director of planning shall, at least 14 days before acting on any application for an administrative variance, a development standards modification, post on the land or building involved a notice of the application as provided in section 19-26.

(e) The director of planning shall send written notice of an application for an administrative variance, a development standards modification to adjacent property owners by registered, certified or first class mail. The "date of notice" shall be the date the notice is mailed. The notice shall specify that the director of planning will approve or disapprove the application not less no sooner than 21 days after the

date of notice and shall advise the recipient of the opportunity to respond to the application prior to the expiration of the 21 days. If written notice is provided by first class mail, the director of planning shall make affidavit that such notice has been sent and shall file the affidavit with the application.

~~(f) If any adjacent property owner objects to the application, in writing, prior to the date the director of planning renders the decision on the application, the application shall be transferred to the board of zoning appeals for a decision.~~

~~(f) The director of planning shall approve or disapprove an application for an administrative variance not less no sooner than 21 days after the date of notice of the application nor more and no later than 90 days after the application for the variance is received. A copy of the written decision to include the findings shall be provided to the applicant and any adjacent property owner who responded in writing to the notice.~~

~~(h)-(g) Any appeal of the final decision of the director of planning on an application for an administrative variance shall may be made to the board of zoning appeals of the county pursuant to in accordance with section 19-21.~~

#### **Sec. 19-24. Applications.**

- (a) (1) Any application for zoning approval or modification to development standards ~~or requirements,~~ may be initiated by resolution of the board of supervisors; by motion of the planning commission; or by petition of the property owner, contract purchaser with the property owner's written consent, or the property owner's agent, with the property owner's written consent.

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#### **Sec. 19-25. Fees.**

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Table 19-25. B. Board of Zoning Appeals and Administrative Fees		
Application Type		Fee (in dollars)
Variance	Administrative	300 <sup>[1]</sup>
	Board of Zoning Appeals	300 <sup>[2]</sup>
Special Exception	Manufactured Home	200 <sup>[2]</sup>
	All Others	300 <sup>[2]</sup>
Amend Conditions of Previously Approved Application		300 <sup>[1]</sup> <del>[2]</del>
Appeal Planning Director's Decision on Zoning Matters		700
Deferral request by applicant of Board of Zoning Appeals Public Hearing		200
Development Standards Modification, Planning Permit or Written Determinations	Development Standards Modification	300
	Temporary Family Health Care Unit	100
	Written Determinations	150
Notes for Table 19-25.B. [1] One application may be made on a single lot for any combination of the requests footnoted as [1]. The fee for any combination of these requests shall not be cumulative; rather the fee shall be based upon the category having the highest fee. <del>[2] One application may be made on a single lot for any combination of the requests footnoted as [2]. The fee for any combination of these requests shall not be cumulative; rather the fee shall be based upon the category having the highest fee.</del>		

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#### Sec. 19-27. Applications within 12 months.

(a) An application for a zoning approval shall not be considered by the board of supervisors or the board of zoning appeals within 12 months of denial of substantially the same request.

~~(b) An application for a modification to development standards or requirements shall not be considered by the planning commission within 12 months of denial of substantially the same request.~~

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#### Sec. 19-301. Definitions.

For the purposes of this chapter, the following words and phrases shall have the following meanings:

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*Development approval:* Includes modification to development standards, exception to requirements, ~~and requirements~~, site plan and schematic plan approval.

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Development standards modification: A deviation from the provisions of this chapter regarding development standards for a building, other improvement, or a standard related to a building or other improvement as outlined in Section 19-23.

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~~Variance, administrative: A variance from any building setback requirement which may be granted by the director of planning with the following restrictions:~~

- ~~(1) The director of planning must find in writing that:~~
  - ~~(a) The strict application of the ordinance requirement would produce undue hardship;~~
  - ~~(b) Such hardship is not shared generally by other properties in the same zoning district and the same vicinity; and~~
  - ~~(c) The authorization of such variance will not be of substantial detriment to adjacent property and the character of the zoning district will not be changed by granting the variance.~~

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~~(2) That this ordinance shall become effective immediately upon adoption.~~

AYES: Messrs. Gulley, Waller, Brown, Patton and Wallin.

**XII. CITIZEN COMMENT ON UNSCHEDULED MATTERS.**

There were no citizen comments on unscheduled matters.

**XIII. ADJOURNMENT.**

There being no further business to come before the Commission, it was on motion of Dr. Wallin, seconded by Mr. Patton that the meeting adjourned at 6:55 p.m. to Tuesday, April 21, 2015 at 2:30 p.m., in the Public Meeting Room, 10001 Iron Bridge Road, Chesterfield, Virginia.

AYES: Messrs. Gulley, Waller, Brown, Patton and Wallin.

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Chairman/Date

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Secretary/Date